

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

FILED
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
RECEIVED
SEP 10 2008
CLERK'S OFFICE

JEFFREY WALKER,

plaintiff

v

Doe James

John Doe

Jane Doe supervisor

NO. C 08-0802 CRB (PR)

Complaint under 1983 42 U.S.C.

CIVIL RIGHTS ACT REQUEST FOR

~~Leave to~~ Amend complaint
and to add parties and correct
Filing name.

"Demand for Jury Trial"

The use of force, maliciously and sadistically to cause harm violates the Eighth Amendment's protection against cruel and unusual punishment and constitutes Assault and Battery under state Law. Plaintiff was also a mental health patient were he a jail and mental health department failed to protect him against such acts.

MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

Plaintiff JEFFREY WALKER pursuant to Rule 15(a)
and 19(a) Fed. R. Civ P, request Leave to file amended
complaint adding a party.

1. The plaintiff in his original complaint named
John Doe Defendants.
2. since the filing of complaint and through some discovery
plaintiff has learned that John Doe 2 Line 9 is really
Doe James and Lines 13, Line 27 and Line 41 on
Statement of claim and Line 2 of demand and
Request for jury trial compensatory damages, and
Line 2 punitive.

3. This court should grant leave freely to amend a complaint
Forman v Davis, 371 U.S. 178, 182, 83 Sct 177 1962

In re Oregon Corp v Spangler 889 F.2d 108, 112 (6th Cir.)
cert. denied, 494 U.S. 1091 (1990)

Respectfully submitted

JEFFREY Walker 8-31-08

Jeffrey Walker

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

5 JEFFREY WALKER,
6 plaintiff

} NO. C 08-0802 CRB (PR)

AMENDED COMPLAINT

7 v
8 Doe James
9 John Doe et al.
10

} JURY TRIAL Demand

11 sued in their individual and official
12 capacities.

4 STATEMENT OF CLAIM
5

6 on or about December 18-05 plaintiff Jeffrey Walker was
7 incarcerated at San Francisco County Jail CT-8 unit during events
8 described in this complaint.

19 2. Defendants John Doe 1 and James Doe 2 are county jail
20 officers employed by the city and county of San Francisco Jail.
21 They are being sued in their individual and official capacities

22
23 3. Defendant Jane Doe is supervisory senior officer who was
24 present and had failed to intervene and stop defendants
25 John Doe 1 and James Doe 2 and who also failed to report
26 these acts to his/her supervisor to have officers disciplined
27 therefore she is being sued in her official capacities as
28 supervisor

1 4. all defendants have acted and still act under color
2 of state Law at all times relevant to this complaint.

3 5. on or about dec 18 2005 at approximately 7:30 pm or so
4 plaintiff was let out of his cell in hand cuffs behind him
5 by officer John Doe 1 to get a shave in another room
6 before his court date scheduled the next day.

7 6. while walking with officer John Doe 2 plaintiff made a
8 comment to a female friend of his in response to something
9 she said to him while she was in her cell standing at the glass
0 window.

1 7. officer John Doe 2 immediately then slammed plaintiff
2 face first into the window and then took plaintiff to the
3 ground while defendant hit plaintiff several times in face
4 and body and called plaintiff names.

5 8. another officer James Doe 2 was called who assisted John Doe 1
6 in excessive use of force dragging plaintiff back to his
7 cell.

8 9. plaintiff was not resisting at any time during these events.

10. while at plaintiffs cell officer John Doe 2 and James
Doe had plaintiff laid out on the floor while officer
James Doe stepped on plaintiffs hand with his boots on
causing pain and bruising

11. Both officers called plaintiff names humiliating him and demeaning
as plaintiff was a mental health patient causing deterioration in treatment.

I swear under penalty of perjury that the
foregoing statements presented are true and to
my best of my ability to recall and it should
be noted that plaintiff was not resisting during
any of the acts noted. Jeffrey Walter 8-31-08
Jeffrey Walter

Demand and Request for jury trial noted

1. compensatory damages in the following amounts:

A. 100.000 jointly against defendants John doe 1 and ~~John Doe~~ 2 for the physic injuries and emotional as well as mental health issues sustained as a resul of the plaintiffs beating, and causing of both medical and mental health issue
2.50.000 against Jane doe supervisory official senior deputy who was present during acts and had failed to stop or intervene cuasing physical and emotio al and mental health issues due to her neglegence to adequately intervene.

3. The mental health and county jail are being sued for failing to protect patient. 100.000

Punative Awardsin the following amounts

150.000 dollars each against officer John doe 1 and ~~John Doe~~ 2
20.000 against Jane doe supervisor senior deputy.
100.000 against the state, jail, and mental health

And any other Judgements the court deems appropriate that I dont
Know of

Grant such relief as it may appear that plaintiff is entitled.

Jeffrey Walter
Jeffrey Walter

8-31-08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEFFREY WALKER, } NO. C 08-0802 CRB (PR)
plaintiff } MOTION

v

James Doe

John Doe

Jane Doe supervisor

} Extension of Time Request
until discovery response filed
so as to Amend the full and
correct names.

on July 2 08 a notice was given to file a FIRST
Amendment complaint to add the Doe defendants
and an extension of 60 days was given. And a
Blank subpoena form sent. plaintiff had immediately
sent out subpoena on 7-13-08 only it was sent back
because plaintiff signed the bottom portion of the
subpoena in error. July 28 -08 it was mailed
to plaintiff, so on Aug-4-08 plaintiff sent
an order to the clerk to have U.S. marshals
serve sheriff legal services who has all the

Investigation Documents which should note
the complete names of parties involved in

case #S C 08-0801 - C 08-0757 -

This case C 08-0802 in which they had invest-
igated all three acts involved. As soon as they
respond, please note if maybe necessary to file a
motion to compel because none of my request
by regular mail to the jail is being responded
to. I swear under penalty of perjury that I
plaintiff JEFFREY WALKER is making every effort
to obtain the parties involved fullnames to no avail

X Jeffrey Walker 9-31-08 request enough time
Jeffrey Walker

as the court sees fit for them to respond before
it necessary to file motion to compel for discovery.

Thank you!
so submitted.
see: Exhibits A
subpoena Filings

July 13, 2008 - Reg'd.

JULY 13, 2008 - REC'D. U.S. MAIL - 12 JUNIOR COURT

Service - 12 JUNIOR COURT - 12 JUNIOR COURT

of DOCUMENTS

sent back JULY 23, 2008 - and

2. sent out AB-4-04 - 9/11 Documents
to Clerk FL Service

Exhibit A

Case Name:

JEFFREY WALKER v. John Doe et al

Case Number:

C-08-0802 CRB

Court:

united states district court
Northern District of California

PROOF OF SERVICE BY MAIL

I, Jeffrey Walker declare:

That I am over the age of eighteen years of age and am not a party to the above entitled cause of action.
That I reside in Solano County, California at the California Medical Facility, at 1600 California Drive, P.O. Box 2500, Vacaville, California, 95696-2500.

That on 7-13-08 I served the attached: a true copy of the attached:

several subpoenas and attached documents
with court order

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal legal mail collection system at the California Medical Facility, Vacaville, California, addressed as follows:

united states district court
Northern District of California
450 Golden Gate Ave
San Francisco CA 94102-~~0000~~ Jw

I declare under penalty of perjury and under the laws of the State of California that the foregoing is true and correct. That this proof of service was executed on the 7-13-08 at California Medical Facility, Vacaville, California.

Jeffrey Walker
Declarant

Jeffrey Walker
Declarant's Signature

29

SAO88 (Rev. 12/07) Subpoena in a Civil Case

UNITED STATES DISTRICT COURT
Northern District of California

JEFFERY E. WALKER**V.****JOHN DOE ET AL****SUBPOENA IN A CIVIL CASE**Case Number:¹ **C-08-0802 CRB(PR)**

TO: **SHERIFF LEGAL SERVICE**
ROOM 456 CITY HALL
1 CARLTON B GOODLETT PLACE
SANFRANCISCO CA 94102

ATTN: Freya A Horne
Assistant Legal Counsel

- YOU ARE COMMANDED** to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM DATE AND TIME

- YOU ARE COMMANDED** to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

- YOU ARE COMMANDED** to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): See : a Added Page Attached - mailing address
1. Transcripts of Interviews *on sheriffs and staff* including *any* and all investigation reports. Jeffrey Walker F 11343
 CMF P.O.BOX 2000
 Vacaville Ca 95696-2000

PLACE	DATE AND TIME
	<i>planned</i>

- YOU ARE COMMANDED** to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
<i>Jeffrey Walker</i>	<i>July 13-08</i>
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
<i>CMF, P.O.BOX 2000, Vacaville Ca 95696-2000</i>	

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

AO88 (Rev. 12/07) Subpoena in a Civil Case (Page 2)

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

(c) Protecting a Person Subject to a Subpoena.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JEFFERY EUGENE WALKER,

Case Number: CV08-00802 CRB

Plaintiff,

CERTIFICATE OF SERVICE

v.

JOHN DOE I et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 2, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jeffery E. Walker F-11343
CMF
P.O. Box 2000
Vacaville, CA 95696-2000

Dated: July 2, 2008

Richard W. Wiekking, Clerk
By: Barbara Espinoza, Deputy Clerk

City and County of San Francisco

OFFICE OF THE SHERIFF



Michael Hennessey
SHERIFF
(415) 554-7225

May 29, 2008
Ref: AL 2008-062

Jeff Walker F11343
CMF P.O. Box 2000
Vacaville, CA 95696-2000

Dear Mr. Walker,

I am writing in response to your letter requesting the records of the investigation of assaults on you. I am enclosing a copy of your medical records obtained at your request with your signed release and a taped copy of your interview. Any other investigation records are only available by subpoena.

Sincerely,

A handwritten signature in black ink, appearing to read "Freya A. Horne".

Freya A. Horne
Assistant Legal Counsel

enclosures: Transcript of Interview
Investigation Report

Case Name: Jeffery Walker V John & Jane does
Case Number: s 1 .C-08-0801 2. c-08-0802 3.C-08-0757 CRB PR leave to Amend
Court: UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT CA.

PROOF OF SERVICE BY MAIL

I, Jeffery Walker declare:

That I am over the age of eighteen years of age and am not a party to the above entitled cause of action.
That I reside in Solano County, California at the California Medical Facility, at 1600 California Drive, P.O. Box 2500, Vacaville, California, 95696-2500.

That on 3-29-08 I served the attached: a true copy of the attached:

sheriff legal counsel Letter sent in nov to & New letter & Documents
court cival Board Of Supervisors
notive 7 case # 1Dr. carlton B Goodlett Pl # 244

SanFrancisco Ca. 94102

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal legal mail collection system at the California Medical Facility, Vacaville, California, addressed as follows:

Board of Supervisors
1Dr. carlton B Goodlett Pl # 244
SanFrancisco Ca 94102

I declare under penalty of perjury and under the laws of the State of California that the foregoing is true and correct. That this proof of service was executed on the 3-29-08 at California Medical Facility, Vacaville, California.

Jeffery Walker
Declarant

Jeffrey Walker
Declarant's Signature

to Sheriff Legal counsel

Nov 26-07

My Name Is Jeff Walker Sr.

I have spoken To L.T. Quantico concerning The Investigation unto
The Assaults complained about against the County Jail Officers and
have been told to contact you.

1.I need a copy of all investigation reports

2.Names Of all officers involved who have been Identified

3.All Medical & Mental health reports from Sanfrancisco General & county
Jail in which I signed a certificate giving consent to give to you.

4.Also any Info concerning Who was Identified as medical staff

Involved with the cutting of my wrist three times in one day
including officers who were present.

5.Any and all investigations unto the other acts of cutting wrist

I would like to know what's being done and not done we're am preparing
to file suite against these parties. This info is strikely for legal
purposes.

Mr Jeff walker F 11343

CMF P.O.Box 2000

Vacaville Ca.95696-2000

Please Forward To me at this adress Thank you

SanFrancisco County Jail Investigative
any Questions Contact L.T Quantico at 415 554-2380

Thank you !

This notice is a Request for any and all Investigation reports conducted by your department concerning any and all complaints i made against the sanfrancisco county Jail sheriffs Officers and mental health medical staff.

Your department sent me back a notice requiring a subpoena order to the court Granted my request and this is what i need.

I would also like any and all photos conducted if any.

These Documents and info is strickley needed for civil claim reasons only and will not be used in any violation of the law.

Sincerely submitted.

1.Copy to the court and another to attorney general

Dated July 13-08 proof of service enclosed to all parties

Case Name:

Walker v John Doe et al

Case Number:

08-0802 CRB (PR)

Court:

United States District Court

Northern District of California

PROOF OF SERVICE BY MAIL

I, Jeffrey Walker declare:

That I am over the age of eighteen years of age and am not a party to the above entitled cause of action.
That I reside in Solano County, California at the California Medical Facility, at 1600 California Drive, P.O. Box 2500, Vacaville, California, 95696-2500.

That on Aug-4-08 I served the attached: a true copy of the attached:

See: Subpoena and added page
and court order

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal legal mail collection system at the California Medical Facility, Vacaville, California, addressed as follows:

United States District Court
Northern District of California
4150 Golden Gate Ave
San Francisco CA 94102

I declare under penalty of perjury and under the laws of the State of California that the foregoing is true and correct. That this proof of service was executed on the Aug-4-08 at California Medical Facility, Vacaville, California.

Jeffrey Walker

Declarant

Jeffrey Walker

Declarant's Signature

~~AO88 (Rev. 12/07) Subpoena in a Civil Case~~

UNITED STATES DISTRICT COURT
Northern District of California

Jeffrey E. Walker

SUBPOENA IN A CIVIL CASE

V.

John Doe *Attn: Freya A Horne*
Sheriff Legal Services
 TO: *Room 456 CITY HALL*
1 Carlton B Goodlett place
San Francisco CA. 94102

Case Number:¹ C-08-0802 CRB (PR)

Attn: FREYA A HORNE
ASSISTANT LEGAL COUNSEL

- YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

- YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): *See Attached page.*

*1. TRANSCRIPTS OF Interviews From Internal Affairs Investigation
 on Assaults on me by sheriffs including photo's or any other evidence
 collected in Investigation - Including Full names of sheriffs .*

PLACE	DATE AND TIME

- YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
<i>Maria Loo</i>	July 28, 2008

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Maria Loo, Deputy Clerk, U.S. District Court, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

AO88 (Rev. 12/07) Subpoena in a Civil Case (Page 2)

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:**(c) Protecting a Person Subject to a Subpoena.**

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

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(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;
(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(ii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;
(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

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(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and
(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Jeff

EMT P.O. Box 2000

Yacaville CA 95696-2000

CA MEDICAL FACILITY

FIRST CLASS



Confidential
Confidential
Legal

Northern District of California
450 Golden Gate Avenue

San Francisco CA 94102